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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,671	02/05/2002	Petrus Wilhelmus Braat	F7587(V)	7096

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EXAMINER

WONG, LESLIE A

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 11/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/067,671

Applicant(s)

BRAAT ET AL.

Examiner

Leslie Wong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-9 and 11-19 is/are pending in the application.
4a) Of the above claim(s) 11-16 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-5, 7-9, and 17-19 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

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This application contains claims 11-16 drawn to an invention nonelected with traverse. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7-9, and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glacino (US Patent No. 3,519,437), Poiger et al (US Patent No. 4,194,017), Heyland et al (US Patent No. 4,879,130), and Ter Braak (US Patent No. 5,962,061) for the reasons set forth in rejecting the claims in the last Office action. The new claims are not seen to influence the conclusion of unpatentability previously set forth..

Glacino discloses a process for preparing a flavoring mix comprising heating reactants with water as is claimed (see entire patent, especially Examples X and XI, and claims 7 and 8).

Poiger et al disclose a process for preparing a flavored base comprising heating reactants (e.g. protein and saccharide) with water for 0.5 to 5 minutes to a temperature in the from 100° to 200° C as is claimed (see entire patent, especially the abstract and claim 1).

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Heyland et al disclose a process for preparing a flavoring agent comprising heating reactants (e.g. amino acids and sugar) with water for 30 seconds to 30 minutes at a temperature of 80° to 140° C as is claimed (see entire patent, especially claim 1).

Ter Braak discloses a process for preparing a flavoring mix comprising heating reactants (e.g. protein and sugar) with water as is claimed (see entire patent, especially claims 1-3).

The water content reduction would be no more than inherent and/or obvious to that of the prior art at the same components, times, and temperatures are utilized.

The claims differ as to the specific recitation of a vending machine.

All of the prior art processes take place in a machine. The recitation of a vending machine is considered no more than a matter of choice. It is notoriously well-known in the art to prepare foods within a vending machine. Certainly, any visit to a cafeteria will provide ample showing of vending machines that prepare food.

It would have been obvious to a person of ordinary skill in the art, at the time the invention was made, to prepare any of Glacino, Poiger et al, Heyland et al, and Ter Braak in a vending machine because the use of vending machines is both conventional and well-known in the art.

In the absence of a showing to the contrary, the water reduction is merely deemed to be a matter of choice and dictated by the desired product.

Applicant's arguments filed August 29, 2005 have been fully considered but they are not persuasive.

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Applicant argues that none of the references describe heating a carbohydrate source and nucleophilic species and at least 20% by weight of water to a temperature of 100°C to 250°C followed by reducing the water content of the composition during heating to less than 5 wt. % within one (1) minute after the heating has started.

Applicant argues that none of the references teach the use of a food vending machine.

All of the references teach heating a protein and saccharide with water as is claimed. Applicant does not exclude additional components and steps of the prior art. The recitation of a vending machine is considered no more than a matter of choice. It is notoriously well-known in the art to prepare foods within a vending machine.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leslie Wong whose telephone number is 571-272-1411. The examiner can normally be reached on Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Leslie Wong
Primary Examiner
Art Unit 1761

LAW
November 9, 2005